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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,899	01/05/2004	Tsuguharu Saito	8001-1175	2016
466	7590	11/02/2004	EXAMINER	
YOUNG & THOMPSON 745 SOUTH 23RD STREET 2ND FLOOR ARLINGTON, VA 22202			LE, UYEN CHAU N	
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/750,899

Applicant(s)

SAITO, TSUGUHARU

Examiner

Uyen-Chau N. Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 01/05/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

2. The abstract of the disclosure is objected to because of its minor informalities.
Re abstract, line 6: Substitute “the automatically” with -- then automatically --.
Correction is required. See MPEP § 608.01(b).

Claim Objections

3. Claims 1-4 are objected to because of the following informalities:
Re claim 1, line 2: Substitute “a vote-recording function” with -- a first vote-recording function --.
Re claim 2, line 3: Substitute “programs” with -- program of each said machine --.
Re claim 2, line 4: Substitute “a said agent program” with -- said agent program --.
Re claim 3, line 2: Substitute “ a said vote-recording function” with -- a second vote-recording function --.
Re claim 3, line 3: Substitute “a said normal voting machine” with -- said normal voting machine --.
Re claim 3, lines 3-4: Substitute “said vote-recording machine” with -- said first vote-recording machine --.

Re claim 4, line 3: Substitute "said vote-recording" with --said first vote-recording --.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lohry et al (US 5,758,325) in view of Ishikawa (JP 2002-215474).

Re claims 1, 3, 5 and 7-8: Lohry et al discloses a voting system and method comprising a plurality of booths [24, 26], which serves as normal voting machines, have no storage medium (fig. 1; col. 3, lines 6-14); a station 22, which is a vote recording machine (i.e., the station 22 receiving voting data from the plurality of booths [24, 26] and storing voting data in memory cartridge 42); an identical copy of the voting data is also being recorded in flash EPROM 74 for backup (col. 4, lines 33-41); the booths [24, 26] and the station 22 are connected via a network (fig. 1; col. 3, lines 6-14); the station 22 is also linked to a county administrative office/computer via modem 78 and transmit the voting data from the station 22 to the administrative office/computer so that the county administrative can be apprised of real time election results (col. 3, lines 63-66), thus the country administrative office/computer must have a storage medium for storing the received voting data

from various stations 22 in order to obtain real time election results; and the voting data is transmitted in an encrypted format (col. 7, lines 50-54).

Lohry et al is silent with respect to a backup vote-recording function is on a second machine; automatically allocating a second/spare recording machine when a fault occurs in the first recording machine; respectively.

Ishikawa teaches a network-data recording backup system, in which two or more backup serves are always offered (English translation: detail description; paragraph [0006]); when data are stored in one recording machine/sever (1), it is surely constituted so that the data may be stored in other at least two or more backup machines/servers [2, 3] (English translation: detail description; paragraph [0028]); when one initially established recording machine/server (3) is down, each of a recording machine/server (1) and a recording machine/server (2) will detect that and will look for an alternative recording machine/server (English translation: Detail Description; paragraphs [0029]-[0031]).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the teachings of Ishikawa into the system as taught by Lohry et al in order to enhance the backup system for recording data in the event of malfunction (i.e., others than power failure) by having a backup record stored in a second machine, thus recorded data can be retrieved readily at any time even where a fault occurs in the first machine. Furthermore, such modification would provide Lohry et al with a capability of allocating and transmitting data to an alternative recording machine within the network for recording, thus preventing the system from losing data even in the worse case scenarios (i.e., the recording machine is malfunction before the data was saved). Accordingly, such modification would provide Lohry et al with a more accurate system

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(i.e., not to lose any vote), which would provide an accurate election result; and therefore an obvious expedient.

Re claims 2 and 9-10: the booths [24, 26] and the station 22 are connected via a network; therefore, there must be a network interface/agent program for the system to operate and/or communicate with each other.

Re claim 4: when one initially established recording machine/server (3) is down, each of a recording machine/server (1) and a recording machine/server (2) will detect that (English translation: Detail Description; paragraphs [0029]-[0030]); therefore, each of a recording machine/server (1) and a recording machine/server (2) must have a network interface/agent program in order to detect that one initially established recording machine/server (3) is down.

Re claim 6: CPU 46 of the station 22/voting-recording machine outputs all voting data to the network (i.e., to various press agencies, or a county administrator's unit) via modem connection 78 (col. 8, lines 55-59).

6. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Travaille (US 2003/0149616) in view of and Ishikawa. The teachings of Ishikawa have been discussed above.

Re claims 11-12: Travaille discloses a voting system and method comprising a plurality of BR 120, which serves as normal voting machines (fig. 1A; p. 2; paragraph [0025], lines 11-18); MSO 410 including server 122, which is a vote recording machine (i.e., the MSO 410 receiving voting data from the plurality of BR 120 and storing voting data in data base [420, 430]); the server 122 of the MSO 410 is configured to send the voting data to a government server 440, where the votes are tallied (fig. 1A; p. 2; paragraph [0027], lines 1-7) (i.e., the government server 440 must have a storage medium for storing the received voting data from the server 122/MSO 410 in order to tally the votes; and therefore, the county administrative office/computer serves as a backup

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machine); and the voting data is transmitted in an encrypted format (p. 3; paragraph [0029], lines 7-13); the government server 440/backup machine can also received voting data directly from the BR 120 (p. 3; paragraph [0028], lines 1-3); the BR 120, the MSO 410/server 122 and the government server 440 are connected via a network (i.e., via phone line and modem or VPN) (p. 2, paragraph [0027], lines 2-4; p. 3, paragraph [0028], lines 1-3 and paragraph [0029], lines 8-9).

Travaille is silent with respect to the government server/backup machine outputting information that recording is completed; a spare machine, which functions as a spare recording machine when a failure occurs in the recording machine.

Ishikawa teaches a network-data recording backup system, in which a recording machine/server (4) newly turns into a backup server for recording the network data; when data are stored in one recording machine/sever (1), it is surely constituted so that the data may be stored in other at least two or more backup machines/servers [2, 3] (English translation: detail description; paragraph [0028]), and when one initially established recording machine/server (3) is down, each of a recording machine/server (1) and a recording machine/server (2) will detect that and will look for an alternative recording machine/server (English translation: Detail Description; paragraphs [0029]-[0031]); therefore, there must be a "recording complete" or "recording failure" message being outputted by each of the recording machines/servers each time the data are received so that each of the serves can detect the working status of one another.

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the teachings of Ishikawa into the system as taught by Travaille with a backup system for recording data in the event of malfunction (i.e., having a spare recording machine/server), thus the data can be recorded and retrieved readily at any time even when a fault occurs in the primary machine. Furthermore, such modification would provide Travaille with a

capability of detecting errors readily upon occurring by outputting a complete or failure information from each recording machine/server every time it receives data. Accordingly, such modification would provide Travaille with a more accurate system (i.e., not to lose any vote), which would provide an accurate election result; and therefore an obvious expedient.

Re claim 13: Travaille discloses the BR 120, the MSO 410/server 122 and the government server 440 are connected via a network (i.e., via phone line and modem or VPN) (p. 2, paragraph [0027], lines 2-4; p. 3, paragraph [0028], lines 1-3 and paragraph [0029], lines 8-9); therefore, there must be a network interface/agent program for the system to operate and/or communicate with each other. Furthermore, Ishikawa teaches when one initially established recording machine/server (3) is down, each of a recording machine/server (1) and a recording machine/server (2) will detect that (English translation: Detail Description; paragraphs [0029]-[0030]); therefore, each of a recording machine/server (1) and a recording machine/server (2) must have a network interface/agent program in order to communicate with one another and to detect that one initially established recording machine/server (3) is down.

7. Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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The patents to McClure et al (US 6,250,548); Graft III (US 5,278,753); Davis et al (US 6,550,675); Tanaka (JP 2002-259621) are cited as of interest and illustrate to a similar structure of a method of establishing a voting system and voting system established by the method.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Uyen-Chau N. Le whose telephone number is 571-272-2397. The examiner can normally be reached on Mon, Wed. and Fri. 5:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MICHAEL G LEE can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Uyen-Chau N. Le
October 28, 2004